

MEMORANDUM OF AGREEMENT

between

THE BOSTON REDEVELOPMENT AUTHORITY

and

THE BOSTON FAIR HOUSING COMMISSION

This agreement is entered into this _____ day of _____ 1986 between the Boston Redevelopment Authority (BRA), and the Boston Fair Housing Commission (BFHC), to implement the City of Boston Fair Housing and Employment Plan (Fair Housing Plan).

It is mutually agreed that the following provisions be incorporated in the Memorandum of Agreement:

I. Purpose of Agreement

The purpose of this Memorandum of Agreement is to provide for cooperation and coordination of the activities between the BRA and the BFHC in implementing the requirements and commitments contained in the Fair Housing Plan. In particular, it is the intent of the signatories to specify through this agreement the role of each party in carrying out the mandates of the Fair Housing Plan; it is also the intent of the parties to maximize their respective fair housing efforts through sustained interagency communication and to establish interagency procedures to ensure specific efforts to further the fair housing goals established in the Fair Housing Plan.

II. City Officials' Fair Housing Committee

In furtherance of the above stated purpose, there shall be a City Officials' Fair Housing Committee (COFHC) established, the membership of

which shall be drawn from the city agencies involved in housing. The chief executive officer of each respective agency shall represent the agency or shall designate an appropriate representative of such agency to sit on the COFHC.

III. Resolution of Disputes Between BRA and BFHC

Any material dispute between the parties to this agreement on policy matters, shall be submitted to the BRA Director and the BFHC Executive Director for resolution. In the event a resolution cannot be achieved, the matter shall be submitted to the Boston Redevelopment Authority Board for a final determination.

IV. Affirmation Fair Housing Marketing Plan (AFHMP)

- (1) The BFHC will advise the BRA on fair housing related issues involving the creation or rehabilitation of housing projects on BRA-designated land of five (5) or more units (covered projects) in the form of recommendations to the BRA.
- (2) The BRA will advise developers of AFHMP requirements via program designs, requests for proposals (RFPs), and other forms of communications, as stated in the Fair Housing Plan.
- (3) The BRA will provide the BFHC with a copy of all covered project RFPs, which shall be used for purposes of administering this Fair Housing Plan and not for any other purposes.
- (4) Prior to granting a developer tentative designation for a covered project, the BRA will notify the BFHC of the following information:
 - a) the name and address of any and all persons or parties involved in the project;

- b) the exact address of the subject property(ies);
- c) the proposed use of the property.

As a general rule, such information should be provided fifteen (15) days prior to tentative designation.

- (5) The BFHC will screen the developer to determine whether any outstanding Equal Opportunity/Fair Housing complaints exist. If such a complaint does exist, the BFHC will try to resolve it through mediation and hearing procedures. If a solution is not reached, the BFHC may advise the BRA that the developer should not be selected for tentative designation. The BFHC may also recommend that the BRA not select the developer for tentative designation if the developer has a demonstrated history of discriminatory practices in housing. Such history shall be comprised of one or more of the following: legal judgements, administrative rulings, or a series of independent, verifiable and substantive complaints that as a whole would permit the reasonable inference that discriminatory practices have been demonstrated by the developer. Recommendations, favorable or not, will be received by the BRA within fifteen (15) days of notification. Any recommendation that is not received within 15 days will be presumed favorable.
- (6) Prior to the final disposition of property in a covered project, the BRA will require developers to submit an AFHMP that complies with Section V of this agreement. The developer will also be required by the BRA to sign a non-discrimination statement. The BRA will forward copies of AFHMP plans and non-discrimination statements to the BFHC.

V. Elements of AFHMPs

Each satisfactory AFHMP will include the following elements:

- (1) Outreach Efforts. Outreach efforts will consist of:
 - a) requirements that a developer advertise the availability of housing once monthly for a period of three (3) months prior to and three (3) months beyond the actual completion date in citywide and local newspapers;
 - b) requirements that a developer send outreach letters to all appropriate housing counselling agencies which assist minorities and low and moderate income families;
 - c) in particular cases, requirements that the developer undertake additional outreach efforts due to the nature or location of the project.
- (2) Anti-Displacement. Up to seventy percent (70%) of all units in the development may be targeted for neighborhood residents when such targeting is necessary to mitigate displacement or gentrification pressures, and when neighborhood resident preferences result in a fair distribution of units among all city residents. However, in no case may less than thirty percent (30%) of all units be marketed citywide. Additionally, developers in no case may exclude applications for available units from non-neighborhood residents. Plans for the selection of tenants where the neighborhood resident preference is used as a selection criterion shall be approved by the BFHC prior to the issuance of a certificate of completion.

VI. Measures for Compliance

- (1) The BRA will require the developer to submit periodic documentation of compliance, which will include but not be limited to: copies of invoices for advertising space; acknowledgement of receipt of outreach letters from housing counselling agencies; and a report indicating the percentage of units targeted for residents and the actual number of resident-occupied units. Satisfactory compliance with Section V shall be a condition precedent to the issuance of a certificate of completion. If, in the opinion of the BRA, the developer fails to supply sufficient documentation, said failure may constitute grounds for a determination of non-compliance.
- (2) The BFHC may initiate its own review of developer compliance with AFHMP and tenant selection requirements. Such review may include tests, interviews, and record review at the discretion of the BFHC. To assist in such a review, the BRA will provide the BFHC with whatever relevant information the BRA has obtained from the developer.

VII. Procedures for Action Upon Finding of Non-Compliance

- (1) A developer who fails to comply with AFHMP requirements will be required to conduct additional outreach efforts to satisfy AFHMP requirements. Such failure may also constitute grounds for not selecting the developer to undertake future covered projects.
- (2) If the BFHC determines that a developer is not in compliance with the AFHMP, then the BRA and BFHC will jointly determine what further steps the developer must take to achieve compliance.

- (3) Notwithstanding any actions taken pursuant to this agreement, the BFHC shall independently seek to enforce all fair housing provisions contained in its enabling ordinance and its regulations, and in any subsequent ordinances and regulations.

VIII. Evaluation of AFHMP Effectiveness

- (1) Purpose. To ascertain whether the AFHMP procedures are effective in ensuring that all groups in a marketing area have the knowledge and opportunity to obtain units in a development, the COFHC will periodically review and evaluate the performance of the AFHMP program.
- (2) Evaluation Standards. The COFHC will conduct periodic review of the City's progress in conducting marketing outreach to ensure equal access for all residents.
 - a) With marketing outreach data gathered by the BRA and the City, the COFHC will examine project applicant pools to determine whether the Affirmative Fair Housing Marketing Plan is demonstrating positive movement in ensuring equal access to all neighborhoods for all residents. Based on its assessment of applicant pool trends, the COFHC may recommend to the City that additional steps be undertaken in the AFHMP.
 - b) In relation to BRA projects, the COFHC will evaluate the composition of new developments and determine whether project occupancy rates reflect the composition of the City as a whole. On the basis of occupancy trends, the COFHC may make recommendations for changes in future AFHMPs.

- c) The COFHC will submit to the City and BRA Board an annual report summarizing affirmative fair housing marketing efforts and accomplishments.

IX. Auditing and Reporting

- (1) BRA Quarterly Report to BFHC. In relation to BRA projects the BRA will submit a quarterly report to the BFHC concerning the success of affirmative marketing efforts. The BFHC will in turn prepare a report on compliance with the Boston Fair Housing Plan for submission to the MCAD, upon approval of the Mayor; a copy of such report shall be submitted to the BRA Board.
- (2) Content of Report/Standards to Measure Compliance. At a minimum the quarterly report will include the number of housing starts in covered projects, the location of such housing starts, copies of all affirmative marketing agreements, and the identity of the individual(s) within the BRA assigned to implement the Fair Housing Plan and this contract. Periodically, the BFHC may request additional information from the BRA to determine compliance with the Fair Housing Plan. Such requests will be in writing.

X. Training and Information Sharing

The BFHC will provide training to the BRA staff on fair housing issues, civil rights laws and regulations, and the BRA will provide BFHC staff with information on the Authority's programs and policies. Each agency will respond in a timely manner to information requests.

IX. Effective Dates

This memorandum of agreement will become effective on the date that it is executed by both parties and will apply to all covered projects approved from that date forward.

X. Agency Powers

Nothing in this agreement is intended to abridge or constrain the statutory powers and authority of either the BRA or the BFHC. Each agency should independently exercise its powers to enforce all statutes, ordinances, regulations, and contracts that further its fair housing policies.

BOSTON REDEVELOPMENT AUTHORITY

Approved as to form:

Stephen Coyle, Director

Chief General Counsel

Date

BOSTON FAIR HOUSING COMMISSION

Ernest B. Gutierrez, Jr.
Executive Director

Date

MEMORANDUM

SEPTEMBER 25, 1986

TO: BOSTON REDEVELOPMENT AUTHORITY, AND
STEPHEN COYLE, DIRECTOR

FROM: ROBERT MCNEIL, CHIEF GENERAL COUNSEL
JOHN DRISCOLL, ASSISTANT GENERAL COUNSEL

SUBJECT: PROPOSAL FOR THE BRA TO ENTER INTO AGREEMENT WITH THE
BOSTON FAIR HOUSING COMMISSION TO PARTICIPATE IN THE
FAIR HOUSING MARKET PLAN.

Summary: This memorandum describes an agreement between the BRA and BFHC to assist each other in assuring that future developments will comply with the Affirmation Fair Housing Market Plan. The agreement will allow the BRA to withhold a certificate of completion for any given project which does not comply with the AFHMP.

Under the proposed agreement the BRA is to provide coordination and cooperation with the Boston Fair Housing Commission (BFHC) in implementing the requirements and commitments contained in the Fair Housing Plan (FHP).

The City Memorandum of Agreement requires BRA participation in the Affirmation Fair Housing Market Plan (AFHMP). The BRA is to advise developers of the AFHMP when advertising for RFP's. The BRA will, in turn, provide for the BFHC a copy of all RFP's to be used for administering this FHP. Prior to granting a developer tentative designation the BRA will notify the BFHC of all necessary information. If the BFHC finds the proposed tentative developer to have outstanding Equal Opportunity/Fair Housing complaints against him/her or has a past history of discrimination, the BFHC may advise the BRA not to designate that developer.

Prior to final disposition of property, the BRA will require the developer to submit an AFHMP which includes outreach efforts and anti-displacement contingencies. The developer will also be required to sign a non-discrimination statement.

In order to ensure compliance the BRA may require the developer to submit periodic documentation of compliance. The BFHC may also initiate its own review of developer compliance and tenant selection requirements. Again, the BRA will provide the BFHC with any relevant information in regard to their review.

In order to ascertain the effectiveness of AFHMP procedures the City Officials' Fair Housing Committee will periodically review the AFHMP program. Upon review they may make recommendations for change.

In an effort to assure cooperation between the BRA and the BFHC the BFHC will provide training to the BRA Staff on BFHC issues, and civil rights laws and regulation. In turn, the BRA will provide BFHC staff with information on the authority's programs and policies.

VOTED: That the Director be and hereby is authorized to execute an agreement with the Boston Fair Housing Commission said agreement to be substantially in the form as attached including such changes as the Director deems appropriate and in the best interest of the Authority.